

Article - Natural Resources

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§8–1809.

(a) (1) Within 45 days after the criteria adopted by the Commission under § 8–1808 of this subtitle become effective, each local jurisdiction shall submit to the Commission a written statement of its intent either:

(i) To develop a critical area protection program to control the use and development of that part of the Chesapeake Bay Critical Area located within its territorial limits; or

(ii) Not to develop such a program.

(2) On or before July 15, 2002, each local jurisdiction in the Atlantic Coastal Bays Critical Area shall submit to the Commission a written statement of its intent either:

(i) To develop a critical area protection program to control the use and development of that part of the Atlantic Coastal Bays Critical Area located within its territorial limits; or

(ii) Not to develop such a program.

(b) If a local jurisdiction states the local jurisdiction's intent not to develop a program or fails to submit a timely statement of intent, the Commission shall prepare and adopt a program for the part of the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in that local jurisdiction.

(c) (1) If a local jurisdiction states the local jurisdiction's intent to develop a Chesapeake Bay Critical Area program, the local jurisdiction shall prepare a proposed program and submit the program to the Commission within 270 days after the effective date of the criteria adopted under § 8–1808 of this subtitle. However, if the local jurisdiction submits evidence satisfactory to the Commission that the local jurisdiction is making reasonable progress in the development of a program, the Commission may extend this period for up to an additional 180 days. Before submission of a program to the Commission within the time allowed by this subsection, a local jurisdiction shall hold at least 1 public hearing on the proposed program, for which 2 weeks' notice shall be published in a newspaper of general circulation in the local jurisdiction.

(2) If a local jurisdiction states the local jurisdiction's intent to develop an Atlantic Coastal Bays Critical Area program, the local jurisdiction shall prepare a proposed program meeting the requirements of the criteria adopted under § 8-1808 of this subtitle and submit the program to the Commission on or before January 1, 2003. However, if the local jurisdiction submits evidence satisfactory to the Commission that the local jurisdiction is making reasonable progress in the development of a program, the Commission may extend this period for up to an additional 30 days. Before submission of a program to the Commission within the time allowed by this subsection, a local jurisdiction shall hold at least 1 public hearing on the proposed program, for which 2 weeks' notice shall be published in a newspaper of general circulation in the local jurisdiction.

(d) (1) Within 30 days after a program is submitted, the Commission shall appoint a panel of 5 of its members to conduct, in the affected jurisdiction, a public hearing on the proposed program.

(2) (i) Within 90 days after the Commission receives a proposed Chesapeake Bay Critical Area program from a local jurisdiction, the Commission shall approve the proposal or notify the local jurisdiction of specific changes that must be made in order for the proposal to be approved. If the Commission does neither, the proposal shall be deemed approved.

(ii) Within 60 days after the Commission receives a proposed Atlantic Coastal Bays Critical Area program from a local jurisdiction, the Commission shall approve the proposal or notify the local jurisdiction of specific changes that must be made in order for the proposal to be approved. If the Commission does neither, the proposal shall be deemed approved.

(3) A changed proposal shall be submitted to the Commission in the same manner as the original proposal, within 40 days after the Commission's notice. Unless the Commission approves a changed proposal or disapproves a changed proposal and states in writing the reasons for the Commission's disapproval within 40 days, the changed proposal shall be deemed approved.

(e) Within 90 days after the Commission approves a proposed Chesapeake Bay Critical Area program or a proposed Atlantic Coastal Bays Critical Area program, the local jurisdiction shall hold hearings and adopt the program in accordance with legislative procedures for enacting ordinances. If the governing body of the local jurisdiction wishes to change any part of the approved proposal before adoption, the governing body shall submit the proposed change to the Commission for approval. Unless the Commission approves the change or disapproves the change and states in writing the reasons for the Commission's disapproval within 30 days after the Commission receives the change, the change shall be deemed approved. A

changed part may not be adopted until the changed part is approved by the Commission.

(f) (1) Within 760 days after criteria adopted by the Commission become effective, there shall be in effect throughout the Chesapeake Bay Critical Area programs approved or adopted by the Commission.

(2) On or before September 29, 2003, there shall be in effect throughout the Atlantic Coastal Bays Critical Area programs approved or adopted by the Commission.

(g) Each local jurisdiction shall review its entire program and propose any necessary amendments to its entire program, including local zoning maps, at least every 6 years. Each local jurisdiction shall send in writing to the Commission, within 60 days after the completion of its review, the following information:

(1) A statement certifying that the required review has been accomplished;

(2) Any necessary requests for program amendments, program refinements, or other matters that the local jurisdiction wishes the Commission to consider;

(3) An updated resource inventory; and

(4) A statement quantifying acreages within each land classification, the growth allocation used, and the growth allocation remaining.

(h) (1) As often as necessary but not more than 4 times per calendar year, each local jurisdiction may propose program amendments and program refinements to its adopted program.

(2) (i) Except for program amendments or program refinements developed during program review under subsection (g) of this section, a zoning map amendment may be granted by a local approving authority only on proof of a mistake in the existing zoning.

(ii) The requirement in paragraph (2)(i) of this subsection that a zoning map amendment may be granted only on proof of a mistake does not apply to proposed changes to a zoning map that:

1. Are wholly consistent with the land classifications in the adopted program; or

2. Propose the use of a part of the remaining growth allocation in accordance with the adopted program.

(i) A program may not be amended except with the approval of the Commission.

(j) The Commission shall approve programs and program amendments that meet:

(1) The standards set forth in § 8–1808(b)(1) through (3) of this subtitle; and

(2) The criteria adopted by the Commission under § 8–1808 of this subtitle.

(k) Copies of each approved program, as the program is amended or refined from time to time, shall be maintained by the local jurisdiction and the Commission in a form available for public inspection.

(l) (1) If the Commission determines that an adopted program contains a clear mistake, omission, or conflict with the criteria or law, the Commission may:

(i) Notify the local jurisdiction of the specific deficiency; and

(ii) Request that the jurisdiction submit a proposed program amendment or program refinement to correct the deficiency.

(2) Within 90 days after being notified of any deficiency under paragraph (1) of this subsection, the local jurisdiction shall submit to the Commission, as program amendments or program refinements, any proposed changes that are necessary to correct those deficiencies.

(3) Local project approvals granted under a part of a program that the Commission has determined to be deficient shall be null and void after notice of the deficiency.

(m) (1) The Commission may adopt regulations that prescribe the procedures and information requirements for program amendments and program refinements.

(2) In the absence of regulations under paragraph (1) of this subsection, a local jurisdiction may propose changes to adopted programs. Within 10 working days of receiving a proposal under this paragraph, the Commission shall:

(i) Mail a notification to the local jurisdiction that the proposal has been accepted for processing; or

(ii) Return the proposal as incomplete.

(n) A local jurisdiction may specify whether it intends a proposed change to be a program amendment or program refinement. However, the Commission shall treat a proposed change as a program amendment unless the chairman determines that the proposed change is a program refinement.

(o) (1) For proposed program amendments, a Commission panel shall hold a public hearing in the local jurisdiction, and the Commission shall act on the proposed program amendment within 130 days of the Commission's acceptance of the proposal. If action by the Commission is not taken within 130 days, the proposed program amendment is deemed approved.

(2) The Commission shall determine if the proposed amendment is consistent with the purposes, policies, goals, and the provisions of this subtitle, and all criteria of the Commission.

(3) In accordance with the Commission's determination in paragraph (2) of this subsection, the Commission shall:

(i) Approve the proposed program amendment and notify the local jurisdiction;

(ii) Deny the proposed program amendment;

(iii) Approve the proposed program amendment subject to one or more conditions; or

(iv) Return the proposed program amendment to the local jurisdiction with a list of the changes to be made.

(4) If the Commission approves a proposed program amendment subject to one or more conditions under item (3)(iii) of this subsection, the local jurisdiction shall notify the Commission within 60 days of its intent to adopt the conditions.

(5) The local jurisdiction shall incorporate the approved program amendment and any required conditions into the adopted program within 120 days of receiving notice from the Commission that the program amendment has been approved.

(p) (1) Proposed program refinements shall be determined as provided in this subsection.

(2) (i) Within 30 days of the Commission's acceptance of a proposal to change an adopted program, the chairman, on behalf of the Commission, may determine that the proposed change is a program refinement. Immediately upon making a determination under this paragraph, the chairman shall notify the Commission of that determination.

(ii) If a proposed change that was specifically submitted as a program refinement is not acted on by the chairman within the 30-day period, the Commission shall notify the appropriate local jurisdiction that the proposed change has been deemed to be a program amendment.

(3) (i) The Commission may vote to override the chairman's determination only at the first Commission meeting where a quorum is present following the chairman's determination.

(ii) If the chairman's determination is overridden, the proposed change is deemed a program amendment, which shall be decided by the Commission in accordance with the procedures for program amendments provided in this section, except that the Commission shall act on the program amendment within 60 days after a vote to override the chairman.

(iii) If the chairman's determination is not overridden, within 10 working days after the opportunity to override the chairman's decision under item (i) of this paragraph, the chairman, on behalf of the Commission, shall:

1. Determine if the program refinement is consistent with the purposes, policies, goals, and provisions of this subtitle, and all criteria of the Commission; and

2. A. Approve the proposed program refinement and notify the local jurisdiction;

B. Deny the program refinement;

C. Approve the proposed program refinement subject to one or more conditions; or

D. Return the proposed program refinement back to the local jurisdiction with a list of the changes to be made.

(iv) If the Commission approves a proposed program refinement subject to one or more conditions under item (iii)3 of this paragraph, the local jurisdiction shall notify the Commission within 60 days of its intent to adopt the conditions.

(4) A local jurisdiction shall incorporate an approved program refinement and any required conditions into its adopted program within 120 days of receiving notice from the chairman that the program refinement has been approved.

(q) (1) (i) As necessary, a local jurisdiction may combine any or all proposed program amendments or program refinements required for a specific project approval into a single request to the Commission for program amendment, program refinement, or both.

(ii) The Commission shall ensure that any requests received in accordance with this paragraph are consistent with the purposes, policies, goals, and provisions of this subtitle, and all criteria of the Commission.

(2) A project for which a local jurisdiction requests growth allocation may be submitted as a proposed program amendment, program refinement, or both.

(3) Approval by the Commission of a program amendment, program refinement, or both does not affect the Commission's authority to receive notice of or intervene in a project approval that was not specifically approved by the Commission as part of its approval of a program amendment or program refinement.

(r) Within 6 months after the adoption of amended criteria, a local jurisdiction shall send to the Commission:

(1) Proposed program amendments or program refinements that address the amended criteria; or

(2) A statement describing how the adopted program conforms to the amended criteria and certifying that the adopted program is consistent with the amended criteria.

(s) If the Commission adopts a regulation concerning the use of the growth allocation, any use of the growth allocation must be in accordance with that regulation for the change to be considered a program refinement.

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